

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 96-0138  
Controlled Substance Excise Tax  
For Tax Period July 25, 1995**

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**ISSUE**

**I. Controlled Substance Excise Tax—Imposition**

**Authority:** IC § 6-7-3-5; IC § 6-7-3-6; IC § 6-8.1-5-1

Taxpayer protests the assessment of the Controlled Substance Excise Tax.

**STATEMENT OF FACTS**

Taxpayer was arrested for possession of Marijuana. The Indiana Department of Revenue issued an assessment of the Controlled Substance Excise Tax on July 25, 1996. Taxpayer protested the assessment. An administrative hearing was held on October 19, 1999. Taxpayer failed to attend the hearing. This Letter of Findings is written based on the best information available to the Department. Additional facts will be presented as necessary.

**I. Controlled Substance Excise Tax—Imposition**

**DISCUSSION**

Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed, or
- (3) manufactured;

in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Pursuant to Indiana Code Section 6-7-3-6:

“The amount of the controlled substance is determined by:

(1) the weight of the controlled substance. . .”

Taxpayer was arrested and the controlled substance excise tax was assessed based on 33.20 grams of marijuana.

Pursuant to Indiana Code Section 6-8.1-5-1(b), “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer protested the assessment but did not attend the administrative hearing, and so did not offer any evidence that the assessment was invalid. As such, the taxpayer failed to meet the burden imposed by IC 6-8.1-5-1(b).

### **FINDING**

Taxpayer’s protest is denied.